

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES LIABILITY
INSURANCE COMPANY,

Plaintiff,

v.

CONTEMPO HOMEOWNERS
ASSOCIATION,

Defendant.

Case No. [18-cv-02722-MMC](#)

**ORDER DENYING DEFENDANT'S
ADMINISTRATIVE MOTION TO TAKE
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT OFF CALENDAR**

Re: Dkt. No. 22

Before the Court is defendant's "Civil L.R. 7-11 Motion to Take Plaintiff's Motion for Summary Judgment Off Calendar," filed June 27, 2018. Plaintiff has filed opposition, to which defendant has replied.¹

By the instant motion, defendant seeks an order taking off calendar plaintiff's motion for summary judgment, presently noticed for hearing August 10, 2018, for the asserted reason that "[d]efendant will be significantly prejudiced if it has to prepare a comprehensive opposition . . . without the benefit of any discovery." (See Def.'s Opp. at 3:17-19.)

Under Civil Local Rule 7-11, a party may seek an order "with respect to miscellaneous administrative matters, not otherwise governed by a federal statute, [f]ederal or local rule or standing order of the assigned judge." See Civil L.R. 7-11. As plaintiff points out, the matter addressed in defendant's motion is governed by a federal rule, specifically, Rule 56(d) of the Federal Rules of Civil Procedure. See Fed. R. Civ. P.


¹As Civil Local Rule 7-11 does not provide for the filing of a reply, the reply is hereby STRICKEN. The Court notes, however, that consideration thereof would not affect the Court's resolution of the motion as set forth herein.

1 56(d) (providing where "nonmovant shows by affidavit or declaration that, for specified
2 reasons, it cannot present facts essential to justify its opposition [to a motion for summary
3 judgment]," district court may "allow time . . . to take discovery"); see also Family Home &
4 Finance Center, Inc. v. Federal Home Loan Mortgage Corp., 525 F.3d 822, 827 (9th Cir.
5 2008) (setting forth "requirements" nonmovant must satisfy to be entitled to "continuance
6 on a motion for summary judgment").

7 Accordingly, plaintiff's motion pursuant to Civil Local Rule 7-11 is hereby DENIED,
8 without prejudice to plaintiff's seeking relief under Rule 56(d).

9 **IT IS SO ORDERED.**

10
11 Dated: July 6, 2018


MAXINE M. CHESNEY
United States District Judge